

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 13, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1231

Introduced by Assembly Member Jerome Horton

February 22, 2005

~~An act to amend Sections 40448, 40500, 40500.5, 40501, 40502, 40503, 40752, 40804, 41702, 42301.3, 42350, 42351, 42351.5, 42352, 42352.5, 42353, 42354, 42355, 42356, 42357, 42358, 42359, 42359.5, 42360, 42361, 42362, 42363, 42365, 42368, 42372, 42400, 42400.3.5, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 42402.5, and 42451 of, to add Section 42407 to, to add Chapter 7.5 (commencing with Section 40770) to Part 3 of Division 26 of, and to repeal Section 40501.3 of, the Health and Safety Code, relating to air pollution. An act to add Section 40866 to the Health and Safety Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1231, as amended, Jerome Horton. ~~Air pollution: Air Pollution Accountability Act of 2005.~~

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

Existing law establishes one or more hearing boards in each district for the purposes of performing specified functions, including, but not limited to, issuing orders of abatement and issuing, extending, renewing, and reissuing variances from specified provisions of law relating to excess emissions by stationary sources and the products of stationary sources. Existing law provides that the terms of the members of a hearing board are three years, and sets forth the procedure a hearing board is required to take with respect to hearings conducted by the hearing board.

Existing law provides for variances from specified provisions of law relating to excess emissions by stationary sources and products of stationary sources, including interim and emergency variances in specified circumstances. Existing law requires written findings to be made by the hearing board before granting any variance, and sets forth procedures for the revocation or modification of any variance. Existing law specifies criminal and civil penalties for violations of laws relating to excess emissions from stationary sources of air pollution and products from stationary sources, and permits a hearing board to issue an order of abatement if it finds that any person is in violation of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

~~This bill would establish the Air Pollution Accountability Act of 2005 to establish one or more hearing officers, employed and appointed by the state board, to issue, modify, or revoke every order of abatement and every variance, extension, renewal, or reissuance of a variance relating to excess emissions by stationary sources or the products of stationary sources. This bill would specify that districts with hearing boards composed entirely of locally elected officials would not be required to replace the hearing board with a hearing officer for the performance of the above specified functions. This bill would establish procedures for hearings conducted by a hearing officer, and would require each district to provide notices of any request for a variance or issuance of an order of abatement to specified persons. This bill would prohibit a hearing officer from approving any variance authorizing noncompliance with federally approved state implementation plan rules, and would require a hearing officer to make additional written findings in issuing any variance. This bill would provide that fees paid for excess emissions would increase by a factor of 3 for each 30 days the variance continues, and would make public the total fees paid for excess emissions by each business~~

~~through monthly filings by hearing officers or hearing boards with the district board.~~

~~This bill would additionally require the districts to prepare and submit to the state board, on or before January 1, 2007, and annually thereafter, an annual report relating to variances and the total amount of excess emissions allowed by variances in the district, and would require the state board, on or before July 1, 2007, and annually thereafter, to compile the information and send a similar report to the Legislature.~~

~~This bill would make technical, conforming changes relating to the duties and functions of a hearing officer and hearing boards.~~

This bill would require the air districts, on or before December 31, 2007, and biennially thereafter, to submit specified reports to the State Air Resources Board, which would in turn be required, on or before March 31, 2008, and biennially thereafter, to publish the reports on its Internet Web site. The bill would also require the state board to notify the Legislature of the existence of the reports and to provide the Legislature with the specific location (Uniform Resource Locator (URL) or Internet Protocol (IP) address) where the information can be accessed, viewed, downloaded, or otherwise obtained.

Because this bill would impose certain requirements on local districts, this bill would impose a state-mandated local program.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40866 is added to the Health and Safety
2 Code, to read:
3 40866. (a) Each district shall, on or before December 31,
4 2007, and biennially thereafter, submit to the state board, in a
5 format identified by the state board, the following information:
6 (1) The number of variances requested and granted by each
7 district.
8 (2) The shortest, longest, and average length of orders of
9 variances issued.
10 (3) The number of orders of abatement requested and granted
11 by each district.
12 (4) The shortest, longest, and average length of orders of
13 abatement issued.
14 (5) The total amount of excess emissions allowed by the
15 granting of variances or orders of abatement and whether the
16 excess emissions allowed are inconsistent with the state
17 implementation plan.
18 (b) The state board shall, on or before March 31, 2008, and
19 biennially thereafter, compile and publish the district reports
20 required by subdivision (a) on its Internet Web site. The state
21 board shall notify the Legislature that the reports are published
22 and provide the Legislature with the specific location (Uniform
23 Resource Locator (URL) or Internet Protocol (IP) address)
24 where the information can be accessed, viewed, downloaded, or
25 otherwise obtained.
26 SEC. 2. If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.

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***All matter omitted in this version of the bill
appears in the bill as amended in Assembly,
April 13, 2005 (JR11)***

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